

BEFORE THE BOARD OF PRIVATE SECURITY PATROL
OFFICERS AND INVESTIGATORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC
amendment and transfer of ARM)	HEARING ON PROPOSED
8.50.423, 8.50.424, 8.50.427)	AMENDMENT AND TRANSFER,
through 8.50.433, and 8.50.438 and)	ADOPTION AND REPEAL
the repeal of ARM 8.50.425,)	
8.50.437, and 8.50.501 through)	
8.50.506, pertaining to private)	
security patrol officers and)	
investigators, and the proposed)	
adoption of New Rule I, fee)	
schedule and New Rule II, firearms)	
training course curriculum and)	
standards)	

TO: All Concerned Persons

1. On May 19, 2005, at 9:00 a.m., a public hearing will be held in room 489, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and transfer, adoption and repeal of the above-stated rules.

2. The Department of Labor and Industry (Department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Private Security Patrol Officers and Investigators (Board) no later than 5:00 p.m., on May 13, 2005 to advise us of the nature of the accommodation that you need. Please contact Sandy Matule, Board of Private Security Patrol Officers and Investigators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2387; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdp@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: As part of the periodic review of administrative rules, and in conjunction with the 2001 legislation transferring the Board of Private Security Patrol Officers and Investigators from the Department of Commerce to the Department of Labor and Industry, the Board is proposing a number of revisions to the Board rules. Some of the proposed amendments are technical in nature, such as the proposed renumbering of the rules to designate where the rules are to be placed when transferred from ARM Title 8 (Department of Commerce) to ARM Title 24 (Department of Labor and Industry). Similar technical changes substitute modern language for archaic phrasing, correct grammatical errors, and update obsolete or inappropriate

statutory references. The Board determined that it is reasonably necessary to amend the rules to address areas of concern and confusion raised by licensees, license applicants, and the Board. Accordingly, the Board determined that there is reasonable necessity to generally amend certain existing rules, repeal certain existing rules, and adopt two new rules at this time. The proposed amendments are also part of the Board's and Department's ongoing comprehensive rule review in an effort to reduce confusion, eliminate redundancy and archaic language, and increase the overall effectiveness in applying the rules of the Board. This statement of reasonable necessity applies to all the proposed rule actions. Where there are specific bases for a proposed action, the Board will identify those additional reasons immediately following the applicable rule.

4. The rules proposed to be amended and transferred provide as follows, deleted matter stricken, new matter underlined:

8.50.423 (24.186.301) DEFINITIONS As used in Title 37, chapter 60, MCA, and ~~these rules this chapter~~, the following ~~words and phrases definitions~~ will be construed to have the following meanings apply:

(1) "Direct supervision", regarding private investigator trainees, means daily contact between supervisor and trainee while engaged in an investigation, including one in-person, face-to-face meeting per week.

~~(1) (2) As used in 37 60 303, MCA, "dishonorable discharge" means any military discharge which specifically states that stating it is a dishonorable discharge.~~

~~(2) For the purpose of evaluating experience qualifications for licensure the word "year" shall mean 12 consecutive average work months (including leaves for vacation with pay) during which the individual was engaged in full time employment. In this context, full time employment is considered to be employment for compensation when the work schedule constitutes at least 1800 hours annually or more. Self employment must be verified by someone who knows of your experience and self employment condition.~~

~~(3) For purposes of 37 60 321(4), MCA, any crime involving moral turpitude means generally any crime enumerated in Title 45, MCA, or any other crime involving venality, dishonesty, obstruction of justice, lack of integrity, abuse of alcohol and/or use of dangerous drugs, or a third conviction of driving under the influence over any five year period.~~

~~(4) An "internal investigator or auditor" is one who only investigates incidents occurring within the internal affairs of an agency or company by which he is singularly employed and only investigates acts committed by persons who are employed by that company or agency.~~

~~(5) (3) "A Retail merchant" is any means a person who operates a store for the purpose of making sales of and sells~~

goods to ~~other persons~~ individuals who purchase the goods solely for their own use and ~~not for resale~~.

AUTH: 37-1-131, 37-60-202, MCA

IMP: 37-60-101, 37-60-103, 37-60-105, 37-60-202, 37-60-303, MCA

REASON: The Board has determined it is reasonable and necessary to move the definition of "direct supervision" into the rule on definitions, and to delete certain obsolete and antiquated definitions that are no longer valid. The remaining definitions are renumbered in alphabetical order to comply with current ARM standards.

8.50.424 (24.186.507) TEMPORARY PERMIT (1) An applicant for any category of licensure, other than ~~security guard~~ private investigator, who has met all requirements for licensure other than passage of the licensing examination, may apply for a temporary practice permit in accordance with 37-1-305, MCA, and subject to the following conditions:

(a) The permit holder may practice only under the ~~direct, on-site~~ supervision of an individual licensed:

(i) in good standing;

(ii) without pending or final disciplinary action; and

(iii) in the category for which the applicant seeks licensure.

(b) The individual providing supervision supervising licensee is personally responsible for conduct of the temporary permit holder ~~as if the conduct were the licensee's own.~~

(2) Upon meeting the qualifications of this ~~section rule~~, ~~an otherwise qualified~~ the applicant ~~shall~~ may be issued a temporary practice permit by the board. For purposes of ~~applying~~ 37-1-305, MCA, the first license examination for which the applicant is eligible ~~following issuance of the permit~~, is an examination ~~that is~~ taken by the applicant no later than 60 days following temporary permit issuance ~~of the permit~~. ~~The temporary permit remains valid after issuance until the applicant either fails the license examination or passes the examination, meets all other qualifications for licensure and is granted a license.~~

(3) In performance of duties, temporary ~~P~~permit holders shall not:

(a) wear, carry, or possess firearms; or

(b) have access to a firearms; or in the performance of duties. ~~Permit holders shall not~~

(c) have unsupervised access to valuables.

AUTH: 37-1-131, 37-60-202, MCA

IMP: 37-60-302, 37-60-309, 37-60-310, 37-60-312, 37-60-407, MCA

8.50.427 (24.186.501) REQUIRED INFORMATION FOR APPLICATION (1) Prior to granting any license, ~~T~~the board

~~shall conduct or have conducted such investigation on each applicant verify the statements made in applications for licensure as it deems deemed necessary to protect the public health, safety and welfare before granting any license. The board shall seek information from law enforcement officials and other interested and informed persons to determine the character, competence and integrity of the applicant before approval for examination notify local law enforcement pursuant to 37-60-304, MCA.~~

~~(2) Each applicant shall provide:~~

~~(a) his or her the applicant's social security number; and answer questions concerning military service if applicable.~~

~~(3) An applicant must list five references (not related by blood or marriage) and two of the five shall be former employers or individuals or firms with which he/she had a working contractual agreement if self employed, or has knowledge of the agreement or working relationship.~~

~~(4) An individual who may desire licensure in more than one licensure category must pass an exam in each licensure category when required.~~

~~(5) (b) In addition to other pertinent information the board may require, each person who applies for an original license shall supply two one passport-type photos photo of the applicant. Name of applicant should be typed or printed on the back side of the photo; and~~

~~(c) other pertinent information and documents the board may require to verify application information.~~

~~(3) An applicant may be required to pass an exam in each category for which licensure is sought.~~

~~(6) (4) Fingerprints required under this chapter to be submitted to the board Title 37, chapter 60, MCA, shall be submitted to the federal bureau of investigation and the Montana department of justice for examination. The board may issue a probationary or temporary practice permit upon receipt of the criminal history report from the Montana department of justice. Issuance of such license or permit does not guarantee that the applicant will ultimately be licensed. Final license decision will be made licensure is granted only following receipt and review of the federal bureau of investigation report and any investigations thereof. A fingerprint report is valid for one year from date of receipt of the report from the federal bureau of investigation.~~

~~(5) An applicant for private investigator, resident manager or qualifying agent must list the names and telephone numbers of three references not related to the applicant by blood or marriage. Two of the three references must be:~~

~~(a) former employers;~~

~~(b) individuals or firms with which the applicant had a contractual working agreement if self-employed;~~

~~(c) individuals or firms having knowledge of the agreement or working relationship; or~~

~~(d) as determined acceptable by the board.~~

(6) Upon preliminary approval of an application for contract security companies, proprietary security organizations, electronic security companies, and private investigators, the applicant will have 60 days to provide proof of insurance per ARM 8.50.431 [24.186.405] or the application will be closed.

(7) Prior to obtaining licensure as an armed or unarmed private security guard, applicants shall be required to submit proof of the applicant's employment with a licensed contract security company or proprietary security organization.

(8) Contract security companies, proprietary security organizations and electronic security companies shall provide proof of registration with the Montana secretary of state's office and provide the following information:

(a) for individual ownership, the name of the owner and the owner's address;

(b) for a partnership, a list of partners and their addresses;

(c) for a limited liability company, a list of the members and their addresses; or

(d) for a corporation, a list of principal officers and their addresses.

AUTH: 37-1-131, 37-60-202, MCA

IMP: 37-60-304, MCA

REASON: The Board has determined it is reasonable and necessary to amend this rule to reword and reorganize for clarity. It is also reasonable to clarify that private security guards must be employed by a licensed security company before the Board will grant the security guard a license. The Board does not license independently practicing security guards.

8.50.428 (24.186.503) EXPERIENCE REQUIREMENTS

(1) Experience requirements for ~~contract security company and proprietary security organization~~ shall be resident managers and/or qualifying agents of contract security companies and proprietary security organizations are as follows:

(a) two years full-time (35 or more hours per week) lawful experience, as:

(i) ~~as~~ an employee or employer in the field ~~to be licensed for which licensure is sought; or~~

(ii) ~~as~~ a sworn member of any:

(A) federal investigative agency;

(B) ~~or as a sworn member of the~~ military police; or

(C) ~~as a sworn member of any~~ state, county, or city investigative or law enforcement group or police department; or

(iii) ~~as~~ a supervisor or administrator in industrial or governmental security; or

(b) vocational training of at least four, 12-credit semesters in security company operations. ~~All education and~~

~~training must be verified and supplied with the application, including transcripts, diplomas, seminar certificates, course completion or other supporting evidence;~~

(2) Experience requirements for resident managers and/or qualifying agents of electronic security companies are as follows:

(a) two years full-time (35 or more hours per week) experience as an employer or employee in the field for which licensure is sought.

(3) Experience requirements for private investigators are as follows:

(a) three years full-time experience:

(i) engaged in the private investigative business;

(ii) employed as a private investigator or having held a certificate of authority to conduct a private investigative business; or

(iii) having been an investigator, detective, special agent, or peace officer of a city, county, or state government or of the United States government.

(b) In determining experience qualifications for private investigator licensure, "three years" means an accumulation of 5400 hours of experience. Self employment must be verified by tax returns.

(4) Proof of education and training must be submitted with the application and may include:

(a) transcripts;

(b) diplomas;

(c) seminar certificates;

(d) course completion certificates; or

(e) other supporting evidence.

~~(5) Six months of the experience requirement may be met by successful completion and verification of the basic course of at the Montana law enforcement academy and proper verification.~~

~~(6) All applicants may use a~~ A combination of experience, education and training may be used to meet the experience requirement, but education and training may not exceed 1/2 the experience required.

~~(7) One and one-half years experience as a licensed insurance investigator may be counted applied towards the three-years of experience requirements required as for a private investigator.~~

AUTH: 37-60-202, MCA

IMP: 37-60-303, MCA

REASON: It is reasonable and necessary to amend this rule to include specific experience requirements for private investigator licensure that are being deleted from 37-60-303, MCA, pursuant to Chapter 126, Laws of 2005 (House Bill 203 in the 2005 Montana legislature). The Board is proposing to further clarify the varying experience requirements for licensure of security companies and licensure of the companies' resident managers and qualifying agents.

8.50.429 (24.186.505) WRITTEN EXAMINATION (1) If a written examination is required for licensure, All applicants must achieve successfully pass a written examination in their area of licensure with a minimum score of 70% or more on each part of the exam to pass.

(2) Examination fees are set by and payable directly to the examination administrator or vendor.

(2) (3) The Examination shall may consist of questions in the following areas, but shall not be limited to, those areas: on Montana criminal and civil procedures and Montana laws and rules applicable to the area(s) of licensure sought.

(a) private investigator legal rights and limitations on powers of private investigators, areas of investigation, private investigator law and rules, sources of information, service of legal papers, report writing, interrogation and investigative procedures, contracts and recovery and disposal of property.

(b) contract security company and proprietary security organization private investigator law and rules, principles of management and supervision, report writing, legal procedures, electronics, applicable federal law and rules and other related material in the licensure area.

(c) security alarm installers law and rules, principles of management and supervision, report writing, legal procedures, electronics, applicable federal law and rules and other related material in the licensure area.

(3) (4) Prior to taking the examination, Applicants for examination applicants must deposit with the examination proctor, all books, notebooks or and other papers before starting to write the examination. No applicant is allowed to take with them may remove any papers from the examination room in which the examination is administered.

(4) (5) All applicants for examination Examination applicants must have present the notice of examination for the department with the exam identification number before they will to be admitted to the examination.

(5) (6) An applicant may retake that any failed section of the examination he/she has failed upon payment of another examination fee. In the event an applicant shall fail his/her second examination, he/she shall not be eligible for another examination until such time as he/she has furnished documentation of additional education, training or experience in law enforcement or related activities.

(a) In no instance will he/she be eligible for a third exam for a period of six months.

(6) (7) Examinations will be held in Helena The department shall schedule examinations by appointment. Special examinations may be made available by prior arrangements with the department.

(8) Waiver of the examination requirement may be granted at the board's discretion, following an applicant's submission of a written request for such waiver.

AUTH: 37-1-131, 37-60-202, MCA
IMP: 37-60-303, MCA

REASON: It is reasonable and necessary to amend this rule to adapt the requirements to current and future licensure examination processes. Some types of licensure do not require passage of an examination and the Board is in the process of contracting with a vendor for the administration of Board examinations. The amended rule would also provide the Board with the ability to waive the examination requirement upon request and upon the Board's review and consideration. The Board receives requests for examination waiver due to length of relevant experience in other states or for other reasons, but has not in the past had the discretion to even consider such waiver requests. The Board has determined that it is reasonable for the Board to allow exam waiver in instances where the Board determines that sufficient experience is present to ensure the adequate protection of the public.

8.50.430 (24.186.403) IDENTIFICATION POCKET CARD

(1) Only one identification card shall be issued for each licensee licensure category. ~~The holder of an identification card shall be licensee is~~ responsible for the maintenance, custody and control of the ~~identification~~ card, and shall ~~neither let, loan, sell nor otherwise not~~ permit any unauthorized ~~persons or employees~~ use it of the card. If an identification card ~~shall be~~ is altered in any way, it ~~shall become~~ is invalid.

(2) Identification cards are renewed ~~in the same way as license renewal in~~ pursuant to ARM 8.50.433 [24.186.513].

(3) Each photograph ~~(1 1/2" x 1 1/2")~~ submitted ~~shall~~ must fairly and accurately represent the appearance of the applicant. If the department determines that its file copy does not bear substantial resemblance to the applicant, ~~it the~~ department may ~~request~~ require a new photograph.

AUTH: 37-60-202, MCA
IMP: 37-60-309, MCA

8.50.431 (24.186.405) INSURANCE REQUIREMENTS

(1) Persons regulated by Title 37, chapter 60, MCA, and licensed as ~~a private investigator, a security alarm installer, a contract security company or a proprietary security organization~~ follows shall file with the board, a yearly certificate of insurance with the board:

(a) ~~Persons licensed as private~~ Private investigators shall ~~carry~~ maintain a minimum of ~~\$25,000~~ \$500,000 occurrence form of commercial general liability which includes personal injury.

(i) ~~Persons~~ If licensed with armed status, private investigators shall ~~carry~~ be covered by liability for firearms coverage.

(b) ~~Persons licensed as security alarm installers~~ Electronic security companies shall ~~carry~~ maintain a minimum

of ~~\$100,000~~ \$500,000 occurrence form of commercial general liability which includes personal injury and errors and omissions coverage.

(c) ~~Persons licensed as contract~~ Contract and proprietary security companies shall ~~carry~~ maintain a minimum of ~~\$100,000~~ \$500,000 occurrence form of commercial general liability which includes personal injury.

(i) ~~Persons~~ If licensed with armed status, employees of contract and proprietary security companies shall carry liability for firearms coverage.

(2) Except as provided in ~~(4)~~ this rule, all licensees must be insured by a carrier:

(a) ~~that is~~ licensed in the state in which the insurance ~~has been~~ was purchased and ~~which is~~ covered by that state's insolvency fund; or

(b) ~~that is~~ licensed in the state of Montana.

(3) Each licensee shall sign a release ~~allowing its~~ requesting the insurance carrier to inform the board ~~in the event that if~~ the coverage is canceled or allowed to lapse.

~~(4) Proof of financial responsibility may be accepted in lieu of an insurance policy. Such proof shall consist of a property bond, a fiduciary bond, trust fund, escrow account or a combination therefore, as follows:~~

~~(a) Persons licensed as private investigators shall carry a minimum of \$25,000.~~

~~(b) Persons licensed as security alarm installers shall carry a minimum of \$100,000.~~

~~(c) Persons licensed as contract and proprietary security companies shall carry a minimum of \$100,000.~~

AUTH: 37-1-131, 37-60-202, MCA

IMP: 37-60-202, MCA

REASON: It is reasonable and necessary to amend this rule to update the insurance requirements of licensees to harmonize such requirements with current insurance industry standards and minimum policy limits available. The rule is further being reorganized for clarity and to lessen confusion among readers. The Board has determined it is reasonable and necessary to no longer allow proof of financial responsibility in lieu of proof of insurance for applicants and licensees. This exception was rarely used and served to create confusion among both license applicants and licensees.

8.50.432 (24.186.407) REGULATIONS OF UNIFORM (1) No individual shall, while performing any ~~of the duties~~ duty regulated by Title 37, chapter 60, MCA, have or utilize any:

(a) uniform, vehicle or equipment displaying the words, "police", "law enforcement officer", or the equivalent thereof; ~~;~~ or

(b) ~~have any~~ patch, emblem, sign marking, accessory or insignia ~~that may indicate that~~ indicating such uniform, vehicle or equipment is the property of a public law

enforcement agency, ~~or of~~ the state of Montana, or any of its political subdivisions.

(2) ~~Any person, while performing any of the duties regulated by Title 37, chapter 60, MCA, who is~~ A licensee required to wear a uniform while performing any duty regulated by Title 37, chapter 60, MCA, must have the uniform approved by the board.

(a) All uniforms shall, on the outermost garment except for rainwear or foul weather clothing, ~~have:~~ clearly identified display:

- (i) the company name; ;
- (ii) the individual's name; and
- (iii) the occupational category.

(3) ~~All~~ Uniformed security guards shall wear a patch on their uniforms as follows:

- (a) no less than one inch by three inches in size;
- (b) with displaying the words "security", "security officer" or "security guard":
 - (i) in block letters; and
 - (ii) of contrasting colors; and
- (c) ~~on~~ above the left ~~breast~~ chest pocket.

AUTH: 37-60-202, MCA

IMP: 37-60-407, MCA

8.50.433 (24.186.513) LICENSE RENEWAL (1) The board shall send Each each licensee, will be notified by mail to at his the licensee's last known address, of the current renewal fee and furnished with an application for renewal, indicating the renewal fee, prior to expiration of license.

(2) ~~Each person who applies for renewal of a license shall~~ At renewal, the board may require applicants to submit one recent photograph showing full face, head and shoulders of the applicant, with the application for renewal which will to be used for the current identification card. It must be of a size that can be cut to 1 1/2 inch by 1 1/2 inch and still retain full face, head and shoulders in the photo.

(3) ~~An expired~~ Expired licenses may be renewed within 90 days of ~~its the renewal expiration date, as shown in ARM 8.2.208, with the upon~~ payment of the renewal fee and late fee. If more than 90 days have passed since ~~any license has expired expiration, to obtain a new license the applicant must:~~

- (a) submit a new application ~~must be made,;~~
- (b) take and pass the appropriate examination; ~~taken and~~
- (c) ~~passed with pay the required appropriate fees paid, before any new license will be issued.~~

AUTH: 37-60-202, MCA

IMP: 37-60-312, MCA

8.50.438 (24.186.511) PRIVATE INVESTIGATOR TRAINEE

(1) Applicants ~~On a form provided by the board, a person who is are~~ at least ~~19~~ 18 years of age, but ~~does not meeting~~

the experience requirements of ~~37-60-303(1) and (3)~~, MCA a private investigator, may apply for a private investigator trainee license as a ~~private investigator~~.

(a) The application shall be:

(i) on a board-approved form; and

(ii) ~~accompanied by~~ include a statement from a licensed private investigator:

(A) ~~who~~ that the licensee will employ and provide direct supervision of the trainee ~~license holder~~; and

(B) setting forth the scope of the trainee's license holder's duties and training.

(2) ~~Direct supervision for the purposes of (1) means daily contact while the trainee licensee is engaged in an investigation including one face to face meeting on a weekly basis.~~ A trainee license holder may not conduct an independent business or act as an independent contractor.

(3) ~~The~~ e Employment and training of the trainee license holder may not ~~commence~~ begin until:

(a) the board has approved the application; and

(b) the applicant has received the trainee license and identification card.

(4) ~~The~~ Trainee licenses expires annually ~~and may be renewed three times as set forth in ARM 8.2.208.~~

(5) Private investigators shall submit quarterly reports, on a board-approved form, regarding each private investigator trainee they supervise.

AUTH: 37-60-202, MCA

IMP: 37-60-202, MCA

REASON: The Board has determined it is reasonable and necessary to amend the minimum age requirement for private investigator trainees from 19 to 18 years of age to match the minimum age requirement for other licensees as set forth in 37-60-303, MCA. The Board is also amending this rule to require private investigators to submit quarterly reports to the Board on every private investigator trainee supervised. Submission of such reports will assist the Board in ensuring such trainees are being adequately supervised pursuant to the requirements in rule. The definition of "direct supervision" has been moved to the definitions rule at 8.50.423 (24.186.301). The Board has determined to delete the three-time limitation on trainees' licensure renewal as such a requirement does not serve to enhance the Board's protection of the public.

5. The proposed new rules provide as follows:

NEW RULE I FEE SCHEDULE

(1) License application fees are as follows:

(a) Contract security companies, proprietary security organizations and electronic security companies:

(i) Company \$200

(ii) Resident manager or qualifying agent 100

(iii) Security guard, alarm installer or alarm response runner	25
(b) Private investigator	200
(c) Private investigator trainee	100
(d) Certified firearms instructor (biannual)	100
(e) Armed status	25
(2) License renewal fees are as follows:	
(a) Contract security companies, proprietary security organizations and electronic security companies:	
(i) Company	100
(ii) Resident manager or qualifying agent	75
(iii) Security guard, alarm installer or alarm response runner	45
(b) Private investigator	100
(c) Private investigator trainee	45
(d) Certified firearms instructor (biannual)	100
(e) Armed status	25
(f) Late renewal	50
(3) Miscellaneous fees are as follows:	
(a) Duplicate license or photo ID card (original lost or destroyed)	10
(b) FBI processing fee	24
(c) Department of justice processing fee	8
(d) Temporary practice permit	25
(e) License history/license verification	15
(f) Changes of employer, address or name	10
(g) List of licensees for continuing education purposes only	40
(h) Copies, per page	.35
(i) Certified copies, per page	.50
(j) Training program certification (application and renewal)	50
(4) Fees are deemed earned by the board upon receipt and all fees are nonrefundable.	

AUTH: 37-1-134, 37-60-202, MCA

IMP: 25-1-1104, 37-1-134, 37-60-304, 37-60-312, MCA

REASON: The Board has determined there is reasonable necessity to repeal the existing fee schedule rule at ARM 8.50.428 and adopt a new fee schedule rule (New Rule I). The Board is required by 37-1-134, MCA, to set licensure fees at a level commensurate with costs. The Board performed a review of the fees charged for licensure and other services rendered by the Board. Following the review, the Board is proposing that certain fees be adjusted to be commensurate with the Board licensure costs. The proposed New Rule uses a user-friendly format for the Board fees by more clearly organizing and listing fees. Language choice and other technical changes are proposed to clearly and correctly set forth the specific entities and individuals licensed and regulated by the Board.

The majority of the Board licensure fees remain unchanged from the existing fee schedule. Original licensure fees for resident managers, qualifying agents and private investigator

trainees are being reduced from \$200 to \$100. This will affect approximately 13 applicants and will result in a reduction of \$1,300 in revenue. Original licensure for certified firearms instructors is being increased from \$25 to \$100. The Board determined that the current \$25 fee was not commensurate with the costs associated with this type of licensure. This change will affect approximately 5 persons per biannual renewal period with an estimated biannual revenue increase of \$375.

The Board is proposing to charge a \$25 armed status fee, at original licensure and renewal, to cover the costs of the additional administrative steps required in processing armed status licenses. This will affect approximately 105 new armed status applicants and 425 renewal applicants, with an estimated annual increase in revenue of \$13,250.

Renewal fees for contract security companies, proprietary security organizations and electronic security companies are being reduced from \$120 to \$100. This will affect approximately 115 companies annually, with an estimated decrease in revenue of \$2,300. Renewal fees for private investigators are being reduced from \$120 to \$100, and will affect approximately 191 licensees and result in a \$3,820 decrease in annual revenue. Renewal fees for resident managers and qualifying agents are being reduced from \$120 to \$75, and will affect approximately 120 persons and result in a \$5,400 reduction in annual revenue. Renewal fees for private investigator trainees are being reduced from \$120 to \$45, and will affect approximately 16 licensees, resulting in an annual revenue reduction of \$1,200.

Fees for license history and verification, changes of employer, address or name, licensee lists for continuing education purposes, and document copies will now be included in the fee schedule. The Board office has always provided these services upon request, and charged for such services, but had never delineated the specific costs in rule. It is reasonable and necessary to include these fees in the rule to provide licensees and the public clear notice of the available services and the associated costs.

In order to comply with the requirements of 37-60-202(5), MCA, the Board is proposing to adopt a \$50 fee for applications for the certification of private investigator and private security guard training programs. This new fee will affect approximately 100 courses annually and will result in an estimated \$5,000 increase in annual revenue.

The proposed fee changes will affect approximately 1,089 applicants, licensees, companies or programs, and will result in an estimated annual aggregate revenue increase of \$4,605.

NEW RULE II CURRICULUM AND STANDARDS FOR FIREARMS TRAINING COURSES (1) Certified firearms instructors shall submit course outlines for board approval. Firearms training courses must meet the objectives of firearm safety and

shooting proficiency, with emphasis on shooting distances of less than 15 yards.

(2) Firearms training courses must address the following issues:

- (a) weapon familiarization, including:
 - (i) safety levers;
 - (ii) decocking levers;
 - (iii) magazine release;
 - (iv) slide-lock release; and
 - (v) reloading;
- (b) safe handling of the weapon, emphasizing:
 - (i) negligent discharge;
 - (ii) muzzle direction;
 - (iii) dropping a weapon;
 - (iv) finger on trigger;
 - (v) proper grip;
 - (vi) sight picture;
 - (vii) proper holstering;
 - (viii) weapon retention;
 - (ix) management of malfunctions; and
 - (x) firearms in the home;
- (c) use of deadly force;
- (d) shooting judgment; and
- (e) civil and criminal liability.

(3) Demonstrated competency for both the proficiency test and the written test shall be determined by the certified firearms instructor.

AUTH: 37-60-202, MCA

IMP: 37-60-202, 37-60-303, MCA

REASON: The Board determined it is reasonable and necessary to propose New Rule II to update the rules regarding curriculum and standards for firearms training courses. The Board has determined that the existing rules on firearms training courses are outdated and do not correspond with current standards and trends on content of such courses. The Board reviewed current industry standards and other states' requirements and is proposing New Rule II to replace the outdated rules, which are proposed for repeal.

6. The Board proposes to repeal the following rules:

8.50.425 RESIDENT MANAGER AND QUALIFYING AGENTS found at ARM page 8-1377.

AUTH: 37-60-202, MCA

IMP: 37-60-302, MCA

REASON: This rule is proposed for repeal as the requirements for resident managers and qualifying agents are specified elsewhere in the rules. This rule is redundant and therefore unnecessary.

8.50.437 FEE SCHEDULE found at ARM page 8-1382.

AUTH: 37-1-134, 37-60-202, MCA

IMP: 25-1-1104, 37-1-134, 37-60-304, 37-60-312, MCA

REASON: It is reasonable and necessary to repeal ARM 8.50.437 as it is being reorganized for clarity and replaced with New Rule I.

8.50.501 FIREARMS SAFETY AND PROFICIENCY TEST - MINIMUM REQUIREMENTS found at ARM page 8-1389.

AUTH: 37-60-202, MCA

IMP: 37-60-202, MCA

8.50.502 REGISTRATION REQUIRED ANNUALLY found at ARM page 8-1389.

AUTH: 37-60-202, MCA

IMP: 37-60-202, MCA

8.50.503 CRITERIA FOR A CERTIFIED SHOOTING COURSE found at ARM page 8-1389.

AUTH: 37-60-202, MCA

IMP: 37-60-202, MCA

8.50.504 REQUIREMENTS FOR FIREARMS INSTRUCTORS' CERTIFICATION found at ARM page 8-1390.

AUTH: 37-60-202, MCA

IMP: 37-60-202, MCA

8.50.505 EMPLOYERS' RESPONSIBILITY found at ARM page 8-1391.

AUTH: 37-60-202, MCA

IMP: 37-60-202, MCA

8.50.506 TYPE OF FIREARM found at ARM page 8-1391.

AUTH: 37-60-202, MCA

IMP: 37-60-405, 37-60-406, MCA

REASON: It is reasonable and necessary to repeal ARM 8.50.501 through 8.50.506 because the existing rules are outdated and do not correspond with current standards for firearms training courses. The Board reviewed the existing rules and decided to review and redraft the firearms training course requirements in their entirety, which are proposed as New Rule II in this notice.

7. The remainder of the Board of Private Security Patrol Officers and Investigators rules not being amended and

transferred or repealed at this time will be renumbered and transferred when final action is taken on the proposed rule amendments, new rule adoptions and rule repeals.

8. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted by mail to Sandy Matule, Board of Private Security Patrol Officers and Investigators, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdp@mt.gov and must be received no later than 5:00 p.m., May 27, 2005.

9. An electronic copy of this Notice of Public Hearing is available through the Department and Board's site on the World Wide Web at <http://www.privatesecurity.mt.gov>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

10. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the Board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all administrative rulemaking proceedings of the Board or other administrative proceedings. Such written request may be mailed or delivered to the Board of Private Security Patrol Officers and Investigators, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdp@mt.gov or may be made by completing a request form at any rules hearing held by the Board.

11. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

12. Darcee Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF PRIVATE SECURITY PATROL
OFFICERS AND INVESTIGATORS
RAY MURRAY, PhD, CHAIRPERSON

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State, April 18, 2005.